

## Part III. Administrative, Procedural, and Miscellaneous

### Request for Comments on Procedures Relating to Voluntary and Involuntary Changes in Method of Accounting

#### Notice 96-40

This notice invites public comment on possible changes to Rev. Proc. 92-20, 1992-1 C.B. 685, which provides the general procedures for a taxpayer to change a method of accounting. These changes may include (1) adding procedures for changes in method of accounting made by the district director as part of an examination and by an appeals officer as part of a settlement, and (2) revising some of the existing procedures to better achieve prompt voluntary compliance with proper tax accounting principles.

#### BACKGROUND

Section 446(e) of the Internal Revenue Code and § 1.446-1(e) of the Income Tax Regulations state that, except as otherwise provided, a taxpayer must secure the consent of the Commissioner before changing a method of accounting for federal income tax purposes.

Section 1.446-1(e)(3)(ii) authorizes the Commissioner to prescribe administrative procedures setting forth the terms and conditions under which taxpayers will be permitted to change a method of accounting. The terms and conditions the Commissioner may prescribe include the taxable year for which the change in method of accounting is effective and the taxable year or years in which a § 481(a) adjustment is taken into account.

Rev. Proc. 92-20 sets forth the general procedures under § 1.446-1(e) for obtaining the consent of the Commissioner to change a method of accounting. Rev. Proc. 92-20 uses a gradation of incentives to encourage prompt voluntary compliance. Under this approach, taxpayers that voluntarily file a request to change prior to being contacted for an examination of their income tax returns receive the most favorable terms and conditions. Once contacted for an examination, taxpayers are generally precluded from requesting a change without the consent of the district director. However, some taxpayers that have been contacted for examination may request a change during certain "window periods." For example, certain tax-

payers may request a change during the first 90 days after contact for examination, but will then receive terms and conditions less favorable than those available if they had requested a change prior to such contact. Other taxpayers requesting a change during certain other available window periods receive terms and conditions no less favorable than those available if they had requested the change prior to contact for examination. Taxpayers that are required by the district director to change their method of accounting as part of an examination receive the least favorable terms and conditions.

In addition, Rev. Proc. 92-20 generally provides less favorable terms and conditions for changes from a "Category A method" of accounting than from a "Category B method." A Category A method is any method that is specifically not permitted by the Code, regulations, or a decision of the Supreme Court or any method that differs from a method that is specifically required by any of these authorities. A Category B method is any method that is not a Category A method.

The Service also has provided a number of procedures for taxpayers to obtain automatic consent to change certain methods of accounting. Taxpayers complying with these procedures are deemed to have obtained the consent of the Commissioner to change their method of accounting.

#### REQUEST FOR PUBLIC COMMENT

Rev. Proc. 92-20 provides no guidance on changes in method of accounting made by the district director on examination or by an appeals officer in a settlement. In addition, the Service and Treasury are evaluating whether using window periods and characterizing a method of accounting as a Category A or B method are effective in encouraging prompt voluntary compliance. Accordingly, the Service and Treasury request comments on possible changes to Rev. Proc. 92-20 including, but not limited to, the following:

(1) What are the consequences to the Service and the taxpayer when the district director, as part of an examination, or an appeals officer, as part of a settlement, makes an adjustment that involves a method of accounting? For example, under what circumstances does such an adjustment constitute a change

in method of accounting imposed by the Service (e.g., only if the adjustment includes a § 481(a) adjustment)? When does such a change become final (e.g., when the taxpayer agrees to assessment of the tax, when the period of limitations for filing a claim for refund expires, or at some other point)? What are the effects of such a change on taxable years for which a return has been filed and taxable years for which a return has not yet been filed?

(2) Are the various window periods of Rev. Proc. 92-20 effective in encouraging prompt voluntary compliance with proper tax accounting principles? If not, what alternatives should the Service consider?

(3) Should the distinction between Category A and Category B methods of accounting be modified or eliminated? If so, what alternatives should the Service consider?

(4) Should the Service provide automatic consent procedures for more accounting method changes? If so, for what changes?

Taxpayers may submit comments in writing to:

Internal Revenue Service  
Attn: CC:DOM:CORP: (IA-Branch  
7, Room 5228).  
P.O. Box 7604  
Ben Franklin Station  
Washington, D.C. 20044.

Alternatively, taxpayers may submit comments electronically via the IRS Internet site at:

[http://www.irs.us/treas.gov/prod/tax\\_regs/comments.html](http://www.irs.us/treas.gov/prod/tax_regs/comments.html).

All comments should be received by September 30, 1996. The comments submitted will be available for public inspection and copying.

#### DRAFTING INFORMATION

The principal author of this notice is Robert Testoff of the Office of Assistant Chief Counsel (Income Tax & Accounting). For further information regarding this notice, contact Mr. Testoff on (202) 622-4960 (not a toll-free call).